

Abstract

Institute of Right to Build in Czech and German Law

The thesis deals with the topic of the institute of right to build in Czech and German law. The elementary aim of the thesis is to describe the legal institute of right to build, not only in the Czech legal system, but also in the German legal system.

The right to build is an absolute property right with effect *erga omnes*. It belongs into a group of rights, which privileges one to use a thing of someone else. The statute declares the right to build to be real property. On the ground of the right to build arises the right of the builder to have a building on the surface or under the surface of the encumbered piece of land. The right to build is always limited through a set period of time, it should not be created for longer than 99 years. The typical features of the right to build are alienability and inheritability.

The content of this thesis is divided into four chapters. The nature of right to build, as a right, which privileges one to use the thing of someone else, is described in the first chapter. There are also descriptions of the basic legal terms associated with the right to build. The chapter describes the terms 'building' and 'builder' as well as the principle of *superficies solo cedit*.

The second chapter is dedicated to the history of the right to build. At first it deals with property rights in Roman law, with the first parallel of the right to build named *superficies* and clarifies the development of *superficies*. Then it continues with the modern institute of right to build on the Czech territory. The text of the thesis mentions the act n. 946/1811 Z. s., civil code. After that the thesis describes act n. 86/1912 Ř. z., about the building right, which regulated the right to build on the Czech territory for the first time in history. This act was later replaced by act n. 88/1947 Sb, about the right to build. Later act n. 141/1950 Sb., the civil code brought the new regulation of the right to build, which is also described in the thesis. At the end the thesis deals with act n. 40/2964 Sb., the civil code and describes the institute of personal use of a piece of land, which was parallel to the right to build.

The current regulation of the right to build is described in the third chapter. This regulation contains act n. 89/2012 Sb., the civil code. The content of this chapter consists of the origin of the right to build, of the legal relationships caused by the right to build and of ways how the right to build comes to an end.

The fourth and last chapter provides a general overview of the institute of right to build in German law. In this chapter the text of the thesis deals with the term of right to build,

the history of the right to build and current regulation of the right to build in the Federal Republic of Germany.